March 11, 1870
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Subpoena

TRANSCRIPT OF RECORD.

21

SUPREME COURT OF THE UNITED STATES.

No. ~~314~~ 115

THE UNITED STATES, APPELLANTS,

vs.

THE SCHOONER NONESUCH AND CARGO, JOHN H. ALBURY MASTER AND CLAIMANT.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF FLORIDA.

FILED DECEMBER 2, 1868.

7 Wall 57
Subpoena
Chief Justice

SUPREME COURT OF THE UNITED STATES.

No. 314.

THE UNITED STATES, APPELLANTS,

vs.

THE SCHOONER NONESUCH AND CARGO, JOHN H. ALBURY MASTER AND CLAIMANT.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF FLORIDA.

INDEX.

	Original.	Print.
Libel	1	1
Order for process	3	2
Claim of John H. Albury	5	2
Decree	7	3
Notice of appeal	7	4
Allowance of appeal	7	4
Depositions, taken before the prize commissioner, of John H. Albury	9	4
Pedro Bettilini	17	9
Vessel's certificate of registry	23	12
Shipping articles	25	13
Manifest of cargo	27	14
Invoice of cargo	27	15
Bank notes	28	15
Instructions to master	29	15
Clerk's certificate	31	16

1 District Court of the United States, southern district of Florida. In admiralty.

THE UNITED STATES
vs.
THE SCHOONER NONESUCH AND CARGO, John H. Albury, master and claimant. } Prize.

UNITED STATES OF AMERICA:

Be it remembered, that on the twelfth day of December, in the year of our Lord one thousand eight hundred and sixty-two, Thomas J. Boynton, esq., attorney of the United States for the southern district of Florida, filed in the office of the clerk of said court his libel of information against the ship or vessel called the Nonesuch, her tackle, apparel and furniture, and her cargo, in a cause of prize, in the words and figures following, to wit:

District Court of the United States, southern district of Florida. In admiralty.

THE UNITED STATES
vs.
THE SCHR. NONESUCH AND CARGO.

To the honorable William Marvin, judge of said court:

The libel of Thomas J. Boynton, attorney of the United States for the southern district of Florida, who libels for the United States, and for all parties in interest, against the ship or vessel called the Nonesuch, her tackle, apparel, furniture and cargo, in a cause of prize, alleges:

That pursuant to instructions for that purpose from the President of the United States, Albert G. Clary, of the United States
2 navy, in and with the United States commissioned ship-of-war, the Tioga, her officers and crew, did, on the first day of December, in the year of our Lord one thousand eight hundred and sixty-two, subdue, sieze and capture on the high seas, as prize of war, the said ship or vessel called the Nonesuch, of about the burthen of forty-seven tons, with a valuable cargo on board of the same; and that said vessel and cargo have been brought into the port and harbor of Key West, in the State of Florida, where the same now are within the jurisdiction of this honorable court, and that the same are lawful prize of war and subject to condemnation and forfeiture as such.

Wherefore the said attorney prays that the usual process of attachment in prize causes may issue against said vessel, her tackle, apparel, furniture and cargo; that monition may issue citing all parties having or claiming any interest or property in said vessel or cargo to appear and claim the same, that the nature, amount and value of said cargo may be determined; that due and proper proofs may be taken and heard; and that on all due proceedings being had,

the said vessel, the Nonesuch, together with her tackle, apparel, furniture and cargo may, on the final hearing of this cause, by the definitive sentence and decree of this court, be condemned, forfeited and sold, and the proceeds distributed according to law.

(Signed) THOMAS J. BOYNTON,
U. S. Att'y S. D. of Florida.

3 Whereupon the following order was made and entered in this cause, to wit:

AT CHAMBERS, *Dec. 12th*, 1862.

Ordered, that attachment and monition be issued as prayed returnable January 5th, 1863.

Whereupon attachment was issued to the marshal of said district, commanding him forthwith to attach, seize and take into his custody the said ship or vessel called the Nonesuch, her tackle, apparel, furniture, and the goods, wares and merchandize comprising the cargo of said vessel, in the port of Key West, or wheresoever the same may be found within his precincts, and the same to keep until the further order of this court.

Which attachment was afterwards by him returned duly executed, and with the return thereon endorsed is on file in the clerk's office.

Also monition was issued to the said marshal, commanding him forthwith to cite and admonish all persons whomsoever, having or pretending to have any right, title, claim or interest in or to the said vessel, the Nonesuch, her tackle, apparel, furniture or cargo, to appear at an admiralty session of said court to be held at the court-rooms of said court, at Key West, in said district, on Monday the fifth day of January, A. D. 1863, at ten o'clock of the forenoon of that day, to show cause, if any they have, why condemnation and forfeiture should not be decreed according to the prayer of said libellant.

Which monition was afterwards by him returned duly executed, and with the return thereon endorsed is on file in the clerk's office.

4 Afterwards, to wit, on the eleventh day of December, A. D. 1862, John H. Albury, master of said vessel, the Nonesuch, appears by his proctor, W. C. Maloney, esq., and files his claim to the said vessel, the Nonesuch, and her cargo, in the words and figures following, to wit:

5 United States District Court, southern district of Florida.

THE UNITED STATES
vs.
THE SCHOONER NONESUCH AND CARGO. } Prize.

Now comes John H. Albury, and says that he is the master of the said schooner, and as such is the lawful bailee of the said schooner, her tackle, apparel and furniture, and the goods of her lading, and he claims the same for the respective owners thereof.

And he further says that Augustus G. Adderley, a British subject, residing at Nassau, New Providence, is the true and bona fide owner of the said vessel, as he is informed and believes, and as appears by the register of said schooner.

And he further says that the cargo is the true and bona-fide property of Henry Adderly & Company, composed of British subjects, doing business in Nassau, New Providence, and that no enemy of the United States has any interest or property in or to the said vessel or the goods of her lading.

Wherefore he prays restitution of the same, with damages in the sum of five hundred dollars for the illegal arrest and detention, and such other and further relief as in justice, &c., &c.

JOHN H. ALBURY.
W. C. MALONEY,
Proctor for Claimant.

Sworn before me this 11th day of December, 1862.
GEORGE D. ALLEN, *Clerk.*

6 Afterwards, to wit, on Tuesday, the sixth day of January, in the year of our Lord one thousand eight hundred and sixty-three, the monition in this cause having been returned duly served, and proclamation being ordered and duly made, James R. Beckwith, esq., appearing for the United States and captors, moves the hearing of this cause. The libel having been read on like motion, it is ordered that the testimony in this cause taken before the prize commissioner, and the papers returned as found on board the vessel, be opened and published for the benefit of all parties concerned.

The testimony and papers having been read in evidence, W. C. Maloney, esq., proctor for John H. Albury, master of said vessel, appearing on his behalf, presents his claim to said vessel, the Nonesuch, and her cargo.

The issue being joined, the counsel being heard, Mr. Beckwith, in behalf of the United States and captors, and Mr. Maloney for the claimant, the premises were thereupon submitted to the court.

Afterward, to wit, on Friday the ninth day of January, in the said year, the parties to this cause being present, as on the day of hearing, the court pronounces its decree in the premises, to wit:

7 THE UNITED STATES
vs.
THE SCHOONER NONESUCH AND CARGO. } Prize.

This cause having been fully heard and considered on the depositions in preparatorio and the documents and papers found on board the vessel, and it appearing to the court that there is no sufficient cause for the condemnation of the said vessel or cargo, it is ordered and decreed that they be restored to the claimant for and on account of whom it may concern.

It is further ordered that the prayer of the claimant for costs and

damages be denied, the capture being, in the judgment of the court, justifiable, and that each party pay his own costs.

WM. MARVIN, *Judge.*

Whereupon it is ordered, on motion of Mr. Beckwith, that the district attorney be allowed six days in which to take an appeal from the foregoing decree.

Afterwards to wit, on Tuesday, the thirteenth day of January, in the said year, Thomas J. Boynton, esq., attorney of the United States, appearing on behalf of the United States and captors, prays an appeal from the final decree of this court, in this cause to the Circuit Court of the United States next to be holden in and for the southern district of Florida.

Whereupon it is ordered that said appeal be accordingly allowed.

8

Depositions taken in preparatorio.

9 THE UNITED STATES
vs.
THE BRITISH SCHOONER NONESUCH AND cargo, Albury, master and claimant. } Prize.

Deposition of John H. Albury, master, before George D. Allen, prize commissioner, at Key West, December 8th, 1862.

1st interrogate. To the first interrogatory deponent answers: That his name is John H. Albury; born at Harbor island, Bahamas. He has always lived in the Bahamas; has resided, the last four years at Nassau, New Providence. He is a subject of and owes allegiance to the Queen of Great Britain and Ireland. He came into the United States in the year 1850, at Key West, and remained about four months on the coast wrecking, then about fifteen years old; since then he has resided in the Bahamas. Neither himself nor his father were ever naturalized a citizen of the United States. He is married; wife lives at Nassau.

2nd interrogate. To the second interrogatory the deponent answers: That he was present at the time of capture of the Nonesuch and her cargo.

3rd interrogate. To the third interrogatory deponent answers: That she was taken about thirty-five miles southwest by south from Stirup's Key, on the 1st day of December, 1862; she was taken to Key West. The Nonesuch had no commission or letters authorizing her to make prize. No reason was assigned by the captors for the seizure.

4th interrogate. To the fourth interrogatory deponent an-
10 swers: That she sailed under the British flag. She had an American flag on board, which was on board when he joined her fifteen months ago. He don't know why she had the American flag on board.

5th interrogate. To the fifth interrogatory deponent answers: That no resistance was made to the seizure: one gun was fired from the boat which made the capture. The Nonesuch was captured by a boat from the U. S. ship-of-war Tioga; one brigantine was in sight at the time. The Nonesuch was a merchant vessel, belonging to the Bahamas. The capture was made by a boat with about ten or twelve men from the Tioga.

6th interrogate. To the sixth interrogatory deponent answers: That she could have entered the port of Key West, or any port where the cargo nould have been sold to a profit first had she not been captured and seized; she would have gone to Nassau next; further he don't know.

7th interrogate. To the seventh interrogatory deponent answers: That her name is the Nonesuch; himself was master; A. G. Alderly, the owner, appointed him to the command at Nassau. He has known the vessel about fifteen months; he took possession of her at Nassau in August, 1861; A. G. Alderly delivered her to him.

8th interrogate. To the eighth interrogatory deponent answers: That the Nonesuch is forty-seven tons burthen; seven persons in all belonged to her, all on board when she was taken, all Bahamians; all were shipped for the voyage at Nassau, in November last, by himself; William Nesbit and John Woodside had been sailing in her off and on the last six months. They were all shipped for a voyage from Nassau to Key West, and back to Nassau; the seamen were to receive fourteen dollars a month; the cook's pay and seamen
11 as stated in the shipping articles; the agreement was absolute and unconditional.

9th interrogate. To the ninth interrogatory deponent answers: That he was master of the Nonesuch at the time of capture; neither himself nor any of the crew owned any part, share, or interest in the vessel or goods on board, except 1 quadrant, 4 charts, 2 books, and the instruments for navigation which belonged to himself, in value about sixteen dollars.

10th interrogate. To the tenth interrogatory deponent answers: That he has known the vessel about four or five years. He first saw her in the Bahamas some years ago; she had eight men and one boy in all on board of her when she was pursued and taken; she was a Bahama-built vessel; her name is the Nonesuch; he never knew any any other name for her; she carried no guns.

11th interrogate. To the 11th interrogatory deponent answers: That she draws about six feet and a-half when fully loaded; she drew about six feet four inches when captured; she does not sail well when loaded any deeper than six feet four inches.

12th interrogate. To the twelfth interrogatory deponent answers: That she has a register issued at the custom-house, Nassau, New Providence. Her last foreign voyage, before the one on which she was captured, was from Nassau to Havana, and back to Nassau. The voyage on which she was captured began at Nassau, and would have ended on her return to Nassau. She has been employed wrecking all the time since he took command of her in the Bahamas, ex-

cept one voyage to Havana and back, when she was in ballast each way till she sailed on the voyage on which she was taken; she sailed from Nassau on the 30th day of November, 1862.

13th interrogate. To the thirteenth interrogatory deponent
12 answers: That she had 350 bags of salt, 40 sacks of coffee, 1 box paper; 2 bales paper on board when she left Nassau, which was put on board in November, 1862, and had the same on board when taken.

14th interrogate. To the fourteenth interrogatory deponent answers: That A. G. Adderley, of Nassau, owned the said vessel. He knew him to be owner by the register, and because he had control of her. Mr. Adderly is a Bahaiman by birth; he and his wife reside at Nassau, and is a British subject. He don't know how long Mr. A. G. Adderley has owned the said vessel; he believes she was formerly owned by Henry Adderley, of Nassau.

15th interrogate. To the fifteenth interrogatory deponent answers: That he don't know of any bill of sale or agreement for the transfer of the vessel.

16th interrogate. To the sixteenth interrogatory deponent answers: That the cargo was put on board the vessel at Nassau, in November, 1862. A. G. Adderley shipped the cargo and owned it, or the firm of Henry Adderley, &c., were the owners, he cannot tell precisely in relation to the matter. It was consigned to himself; it was so to be delivered according to where he sold it; it was on the account, risk, and benefit of Henry Adderley & Co., or A. G. Adderley, of Nassau, as before mentioned. The lading consisted of 350 bags of salt, 40 sacks of coffee, 1 box and 2 bales of paper. He believes it would belong to said owner or owners, because they put the same on board and gave him instructions concerning the sale of the same for them.

17th interrogate. To the seventeenth interrogatory deponent answers: That he don't know of any bills of lading being signed for the cargo, nor the rate of freight.

15th interrogate. To the eighteenth interrogatory deponent
13 answers: That he has the register of the vessel; all the other papers were delivered to the boarding officer at the time of the capture, who took them on board of the Tioga; he don't know where they are now. They consisted of an invoice of cargo, clarance, and articles.

19th interrogate. To the nineteenth interrogatory deponent answers: That he cannot tell the precise lat. or long; she was about ten miles from Andros island on the Bahama banks, which bore south southeast, not in or near any part of the United States, when captured, on the first day of December, inst., about 9 o'clock in the morning. There was no charter-party or agreement made for the use of the vessel, to his knowledge.

20th interrogate. To the twentieth interrogatory deponent answers: That the register of the vessel, letter of instructions, clearance from the custom-house, Nassau, invoice of cargo and shipping articles were on board when she sailed from Nassau. No papers were burnt, torn, thrown overboard, or hid away, to his knowledge. He did not deliver the register, because it was not asked for.

21st interrogate. To the twenty-first interrogatory deponent answers: That he had heard of the blockade by the United States of all the southern ports; he heard about the blockade at Nassau in 1861.

22nd interrogate. To the twenty-second interrogatory deponent answers: That the port of Nassau from which she sailed was not blockaded, nor the port to which she was bound, to his knowledge. No notice of any blockade had been received by the master or owner or agent of the vessel, to his knowledge, or written on the vessel's papers. He did not hear any person connected with the vessel or cargo in any way say anything about the vessel running or
14 breaking the blockade at any time.

23rd interrogate. To the twenty-third interrogatory deponent answers: That the register has not been examined at all by any officer of the United States, to his knowledge.

24th interrogate. To the twenty-fourth interrogatory deponent answers: That he has not attempted to enter or sail from any blockaded port.

25th interrogatory. To the twenty-fifth interrogatory deponent answers: That she has not been seized before as a prize.

26th interrogate. To the twenty-sixth interrogatory deponent answers: That he would not lose anything by the capture and detention.

27th interrogate. To the twenty-seventh interrogatory deponent answers: That there is no insurance on either vessel or cargo, to his knowledge.

28th interrogate. To the twenty-eighth interrogatory deponent answers: That the cargo would have been at the risk of the shippers for a market.

29th interrogate. To the twenty-ninth interrogatory deponent answers: That the salt was British manufacture; he cannot tell the country of growth or manufacture of the other articles.

30th interrogate. To the thirtieth interrogatory deponent answers: That the cargo was taken on board from a wharf at Nassau the later part of November, 1862.

31st interrogate. To the thirty-first interrogatory deponent answers: That he has no knowledge of any papers relating to the vessel or cargo, except those on board of her at the time of capture. She had no license from any authority for the voyage.

32nd interrogate. To the thirty-second interrogatory deponent answers: That the shipping articles, clearance, invoice, and letter of instructions, were delivered to the boarding officer at the time of capture; he don't know where they are now.

15 33rd interrogate. To the thirty-third interrogatory deponent answers: That no cargo has been landed.

34th interrogate. To the thirty-fourth interrogatory deponent answers: That there were two passengers on board the vessel. He cannot tell the names of one of them; one of them was a Mr. Smith. He don't know what countrymen they are, or their profession or occupation. They had no commission to his knowledge. They came on board at Nassau, on the 30th of November; he cannot tell where

they were finally destined nor their business; they had passages for Key West. Mr. Smith has two boxes of merchandise, which were on board; the other passenger one box; they had no control over the vessel, nor neither of them had anything to do with the vessel or cargo to his knowledge, except the three boxes referred to. He does not know where the passengers reside; the crew all reside in the Bahamas.

35th interrogate. To the thirty-fifth interrogatory deponent answers: That all the papers found on board were true and fair, so far as he knows. He knows of no circumstance to effect their credit. He was not present when the register was obtained. He don't know who procured it; no one had any passport or license, or letter of safe conduct on board to his knowledge. He has no knowledge of any papers except those which were on board the vessel at the time of capture that relate to the vessel or her lading. He only signed the clearance papers at the custom-house, Nassau.

36th interrogate. To the thirty-sixth interrogatory deponent answers: That he first saw the boat which made the capture about seven o'clock on the morning of the capture; the Nonesuch was then working through the channel; she soon changed her course to
16 west; she kept on that course till she was captured; the wind was about east by south. He don't know the lat. or long. The Nonesuch was pursuing her most direct course for Key West. She had not gone out of her course for Key West. She left Nassau the evening before the capture, and came through the northwest cut. In the morning, after getting through the cut, he changed her course to west, and continued on that course till she was taken. Therewas no log-book kept on board. He did not see any United Sta es ship-of war on the voyage before the capture.

37th interrogate. To the thirty-seventh interrogatory deponent answers: That he don't know of any sale or transfer of the vessel. If restored, she would belong to A. G. Adderley, to the best of his belief.

38th interrogate. To the thirty-eighth interrogatory deponent answers: That she had no guns mounted on board; no arms or ammunition belonging to her. Mr. Smith, passenger, had one gun; no other articles of the kinds enquired about on board.

39th interrogate. To the thirty-ninth interrogatory deponent answers: That he believes the vessel belonged to A. G. Adderley, as before mentioned, and that Henry Adderley & Co., or A. G. Adderley owned the cargo to the best of his knowledge; the cargo was destined to Key West, or any other port where it might be sold for a profit.

40th interrogate. To the fortieth interrogatory deponent answers: She had no convoy. He had no instructions except in regard to the sale of the cargo and purchasing a return cargo.

41st interrogate. To the forty-first interrogatory deponent answers. That he has not attempted to enter any port under blockade;

17 42nd interrogate. To the forty-second interrogatory deponent answers: No.

43rd interrogate. To the forty-third interrogate deponent answers: No.

(S'd) JOHN H. ALBURY.

Deposition of Pedro Bettilini, before George D. Allen, Prize Commissioner at Key West, December 9th, 1862.

1st interrogate. To the first interrogatory deponent answers: That his name is Pedro Bettilini, born in Switzerland. He lived in Jacksonville, Florida, from June 1858 to March 1862. He lived eight months, previous to his residence at Jacksonville, at Charleston, S. C., and one year and a half in New York, previously. He is a citizen of Switzerland, and owes allegiance to that country. He first came into the United States to reside in 1856, at the age of about thirty-four. He has never been naturalized a citizen of the United States; nor was his father. He is married. His wife and family live in Augusta, Georgia.

2nd interrogate. To the second interrogatory deponent answers: That he was present at the time of capture of the Nonesuch and cargo.

3rd interrogate. To the third interrogatory deponent answers: That she was captured on the first day of December inst., about seven or eight miles from Andros island, on the Bahama banks. She was brought to Key West. He don't know that she had any commission. He don't know why she was seized.

4th interrogate. To the fourth interrogatory deponent answers: That she had the English colors on board; he don't know of any other.

18 5th interrogate. To the fifth interrogatory deponent answers: That no resistance was made to the seizure. One gun was fired from the boat which made the capture. She was captured by a boat from a United States man-of-war; one sail in sight at the time. The Nonesuch is a merchant vessel.

6th interrogate. To the sixth interrogatory deponent answers: That he was told the Nonesuch would come to Key West. He don't know where else she would have gone.

7th interrogate. To the seventh interrogatory deponent answers: That her name is the Nonesuch. The captain's name is Albury. Further he saith not.

8th interrogate. To the eighth interrogatory deponent answers: That he don't know her tonnage; he cannot tell the number of the crew; most of the crew were black. Further he saith not.

9th interrogate. To the ninth interrogatory deponent answers: That he was a passenger on board the Nonesuch. He has one box brandy, and one box sweet oil on board, in value about thirteen dollars. A German passenger had two boxes on board. Further he saith not.

10th interrogate. To the tenth interrogatory deponent answers;

That he has known the said vessel since the 29th of November last. First saw her at Nassau. She had no guns. He don't know the number of persons on board. He believes she was a Bahama built vessel. Her name is the Nonesuch. Further he saith not.

11th interrogate. To the eleventh interrogatory deponent answers: That he heard the captain say she drew 6 ft. 4 inches. Further he saith not.

12th interrogate. To the twelfth interrogatory deponent answers: That he knows nothing about her papers. The voyage on which she was captured began at Nassau and would have ended at
19 Key West. She had some coffee and salt on board when she left Nassau; and had the same on board when taken. She sailed from Nassau on the night of the 30th of November.

13th interrogate. To the thirteenth interrogatory deponent answers: That she had salt and coffee on board when she left Nassau, and when she was captured. Further he saith not.

14th interrogate. To the fourteenth interrogatory deponent answers: That Mr. Adderley, of Nassau, was owner or consignee of the vessel at Nassau. Further he saith not.

15th interrogate. To the fifteenth interrogatory deponent saith not.

16th interrogate. To the sixteenth interrogatory deponent answers: That he believes the cargo was put on board at Nassau. He don't know who shipped the cargo; nor who owned it; nor to whom it was consigned; nor where it was to be landed. Further he saith not.

17th interrogate. To the seventeenth interrogatory deponent saith not.

18th interrogate. To the eighteenth interrogatory deponent answers: That he had no papers relating to the vessel or cargo. He don't know what papers were on board.

19th interrogate. To the nineteenth interrogatory deponent answers: That she was taken on the 1st day of December inst., in the morning, about seven or eight miles from Andros island, on the Bahama banks. Further he saith not.

20th interrogate. To the twentieth interrogatory deponent answers: That he don't know what papers were on board; no papers burnt or destroyed, or concealed in any manner, to his knowledge.

21st interrogate. To the twenty-first interrogatory depo-
20 nent answers: That he has known, for a long time, of the blockade of the southern ports.

22nd interrogate. To the twenty-second interrogatory deponent answers: That he did not know of any blockade of the port of Nassau. He did not know that she would go to any place under blockade. Further he saith not.

23rd interrogate. To the twenty-third interrogatory deponent answers: That register of the vessel was not examined before the capture by any officer of the United States, to his knowledge.

24th interrogate. To the twenty-fourth interrogatory deponent answers: That he don't know.

25th interrogate. To the twenty-fifth interrogatory deponent answers: That he don't know.

26th interrogate. To the twenty-sixth interrogatory deponent answers: That he does not lose anything.

27th interrogate. To the twenty-seventh interrogatory deponent answers: That he don't know.

28th interrogate. To the twenty-eighth interrogatory deponent answers: That he don't know.

29th interrogate. To the twenty-ninth interrogatory deponent answers: That he don't know.

30th interrogate. To the thirtieth interrogatory deponent answers: That he don't know.

31st interrogate. To the thirty-first interrogatory deponent answers: That he don't know.

32nd interrogate. To the thirty-second interrogatory deponent answers: That he don't know.

33 interrogate. To the thirty-third interrogatory deponent answers: That nothing was landed from the vessel after leaving Nassau till she got to Key West.

34th interrogate. To the thirty-fourth interrogatory deponent answers: That there were two passengers on board said vessel, himself, Pedro Bettillini, and Frank Smith; himself is Swiss; Mr.
21 Smith is a German; himself is a merchant. He has no commission. He joined the vessel at Nassau. He was coming to Key West to go to Cuba to see his parents. He had no interest in the vessel, or control over her, or over the cargo. He don't know the occupation of Mr. Smith. Mr. Smith joined the vessel at Nassau, and said he was going to Key West; he don't know on what business. He had seen Mr. Smith at Indian river, Florida. Further he saith not.

35th interrogate. To the thirty-fifth interrogatory deponent answers: That he knows nothing about the papers found on board. He don't know of any one having a passport on board. He has not written or signed any letters or papers relating to the vessel or cargo. Further he saith not.

36th interrogate. To the thirty-sixth interrogatory deponent answers that he first saw the boat which made the capture on the morning about two or three hours before the capture. He don't know the course of the Nonesuch; she did not change her course. He had not seen any other United States vessel-of-war on the voyage. Further he saith not.

37th interrogate. To the thirty-seventh interrogatory deponent saith not.

38th interrogate. To the thirty-eighth interrogatory deponent answers: She had no guns mounted on board, nor any articles of the kinds enquired about, to his knowledge.

39th interrogate. To the thirty-ninth interrogatory deponent answers: That he don't know who the vessel belongs to, nor the cargo. Mr. Adderley told the vessel would go to Key West; further he don't know.

40th interrogate. To the fortieth interrogatory the deponent answers: That the vessel had no cargo; he had no instructions.

41st interrogate. To the forty-first interrogatory deponent
22 answers: That she had not attempted to enter any port under blockade in this voyage.

To the forty-second interrogatory deponent answers: Not to his knowledge.

To the forty third interrogatory deponent answers: Not to his knowledge.

(S'd) P. BETTELINY.

23 District Court of the United States for the southern district of Florida.

THE UNITED STATES
vs.
THE SCHOONER "NONESUCH" AND CARGO. } Prize.

Papers returned as found on board the said vessel, the schooner "Nonesuch," and read in evidence on the hearing of this cause:

No. 14—*Certificate of British registry.*—*No.* 3, 1854. *Off'l No.* 36364. *F. W.*

This is to certify that Henry Adderley, of the island New Providence, merchant, having made and subscribed the declaration required by law, and having declared that he is sole owner (in the proportions specified on the back hereof) of the ship or vessel called the "Nonesuch," of Nassau, N. P., which is of the burthen of forty-seven 2265-3500 tons, and whereof Robert George Sawyer is master; and that the said ship or vessel was built at Abaco, one of the Bahama islands, in the year 1849, as appears by her former certificate, No. 8, granted at this port the 18th April, 1854, now delivered up and cancelled, and Thomas Heather Rouse, surveying officer, having certified to us that the said ship or vessel has one deck and two masts, that her length from the forepart of the main stem to the after part of the stern-post aloft is sixty-five feet four-tenths, her breadth in midships is eighteen feet two-tenths, her depth in hold
24 at midships is six feet eight-tenths, that she is schooner-rigged, with a standing bowsprit, is square-sterned carvel built, has no galleries and a billet head, that the frame-work and planking is of wood and that she is a sailing vessel, and the said subscribing owner having consented and agreed to the above description, and having caused sufficient security to be given as required by law, the said ship or vessel called the "Nonesuch" has been duly registered at the port of Nassau, N. P.

Certified under my hand at the custom-house in the said port of Nassau, N. P., this 2nd day of August, in the year one thousand eight hundred and fifty-four.

(Signed) T. H. ROUSE, *Comptroller.*

Names of the several owners within mentioned.	No. of sixty-fourth shares held by each owner.
Herny Adderley.	Sixty-four.

(Sig'd) T. H. ROUSE, *Comptroller.*

Names of the several persons, owners of the ship within described on the 26th day of January, 1860.	No of shares held by each owner.
Augustus John Adderley, of Nassau, N. P., merchant.	Sixty-four, (64.)

I hereby certify that the persons above-mentioned is, on
25 this twenty-sixth day of January, 1860, registered owner of the respective number of shares in the ship within described set opposite his name.

Signed) F. WHITLEY,
Registrar of the port of Nassau, N. P.

Form of endorsement for change of master.

CUSTOM-HOUSE, NASSAU, *Dated 20th Jan'y*, 1859.

Joseph Albury has now become master.

(Sig'd) F. WHITLEY, *Registrar.*

NASSAU, N. P., *11th Aug't*, 1862.

I hereby certify that John H. Albury has this day been appointed master of the ship within described.

(Sig'd) F. WHITLEY, *Registrar.*

BAHAMA ISLANDS, *Port of Nassau, N. P.*

An agreement made, pursuant to the directions of an act of assembly made and passed in the second year of the reign of her majesty, Queen Victoria the first, between John Albury, the master of the schooner Nonesuch, of the port of Nassau, N. P., and the
26 several persons whose names are subscribed hereto:

It is agreed by and on the part of said persons, and they severally hereby engage to serve on board the said schooner in the several capacities against their respective names expressed, on a voyage from the port of Nassau to Key West, and back to the port of Nassau.

And the said crew further engage to conduct themselves in an orderly, faithful, honest careful and sober manner, and to be at all times diligent in their respective duties and stations, and to be obe-

dient to the lawful commands of the master or other officer in everything relating to the said schooner, and the materials, stores and cargo thereof, whether on board such schooner, in boats, or on shore. In consideration of which services to be duly, honestly, carefully and faithfully performed, the said master doth hereby promise and agree to pay the said crew, by way of compensation or wages, the amount against their names respectively expressed.

In witness whereof the said parties have hereto subscribed their names on the day against their respective signatures mentioned:

Place and time of entry.			Men's names.	Capacity or quality.	Am't of wages per calender month.	Am't advanced.	Witness to signatures.
Day.	Month.	Year.					
Nassau.	November 29th.	1862.	Jno. H. Albury	Master	$40	$20	George D. Harris.
				Mate	20	10	
			his Wm. ⋈ Nesbitt m'k.	Seaman	12	6	
			Jno. ⋈ Kemp m'k.	Do	12	6	
			Wm. ⋈ Cartwright m'k.	Do	12	6	
			Jno. ⋈ Woodside m'k.	Do	12	6	
			H'y Leon Brisson	Cook	14	7	

27 PORT OF NASSAU, RECEIVER GENERAL'S OFFICE.

These are to certify to all whom it doth concern, that the British schooner "Nonsuch," whereof Albury is master, hath been duly cleared at this office for Key West, with a cargo consisting of—

100 sacks salt.
40 do. coffee.
2 bales paper.
1 box paper.
1 b'll beef.
1 do. pork.

Given under my hand at the aforesaid port this 29th day of November, in the year of our Lord one thousand eight hundred and sixty-two.

(Signed) E. B. A. TAYLOR,
Act. Rec. Gen. and Treasurer.

Invoice of sundries shipped by Henry Adderley & Co. on board schooner "Nonesuch," Albury, master, consigned to order, Key West, for sale on ac. shippers.

131	sacks salt, 3 bush, $1½	40	18	9
200	" " 2 " 75	31	5	0
20	bags Rio coffee, 4,240 lb., $18	159	0	0
20	" St. Dom. coffee, 2,680 lb.,	100	01	0
	2 bales paper, $35	14	11	8
28	1 box paper	10	0	0
		£355	16	5
	Charges:			
	To labor shipping	6	5	0
		£362	1	5

E. E.

Nassau, N. P., Nov'r 29th, 1862.

(Signed) HENRY ADDERLEY & CO.

One ten dollar bill of the "Farmers' and Mechanics' Bank," Savannah, Ga. No. 2152.

One one-dollar bill of "The Mechanics' Bank," Augusta, Geo. No. 3717.

Instructions for Capt. Albury.

NASSAU, *Nov'r 29th*, 1862.

DEAR SIR: You will proceed at once to Key West and dispose of the cargo there; sell it immediately on arrival for the best price you can get, storage being very high at Key West.

If you can avoid taking a consignee you had better do so, as it will be a saving of expense.

29 You will bring in return as many head of green turtle as you can conveniently stow in the vessel, taking especial care not to purchase any over 150 lbs. nor under 40 lbs. weight. You can bring a couple of 200 lb. or 300 lb. weight; but on no account bring more, the loss being too great if they die.

If you are fortunate and get a good price for your cargo, and you should have some spare funds after purchasing a load of turtle, you can invest the balance in whatever you think suitable for our market.

Be sure and not shut out the turtle, that being the main object of the voyage.

Yours, truly,

(Signed) HENRY ADDERLEY & CO.

30

31 District Court of the United States for the southern district of Florida.

I, George D. Allen, clerk of the District Court of the United States for the southern district of Florida, do hereby certify that the foregoing document, hereunto annexed, is a correct transcript of record of this court in the cause of The United States vs. The schooner Nonesuch and cargo, prize, Albury, master and claimant, duly adjudicated in this court, as appears from the admiralty records and files of said court kept in my office.

In testimony whereof I have hereunto subscribed my name and affixed the seal of said court, at Key West, in the southern district of Florida, this second day of May, in the year of our Lord one thousand eight hundred and sixty-three, and independence of the United States the eighty-seventh.

[SEAL.] GEORGE D. ALLEN, *Clerk.*

32 Circuit Court of the United States, southern district of Florida.

UNITED STATES OF AMERICA:

On the fifth day of October, in the year of our Lord one thousand eight hundred and sixty-eight, the following stipulation was filed in the office of the clerk of this court, to wit:

In the Circuit Court of the United, southern district of Florida.—In admiralty.

THE UNITED STATES
vs.
THE SCHOONER NONESUCH AND CARGO. } Prize.

It is hereby stipulated and agreed by and between Homer G. Plantz, attorney of the United States, and Walter C. Maloney, esq., proctor for the claimant, that this cause be transferred to the Supreme Court of the United States, pursuant to the 13th sec. of act of June 30th, 1864, and that all informalities be and are waived, and that the said cause may be heard and determined in the Supreme Court, in all respects the same as if an appeal had been regularly taken from the District Court to the Supreme Court of the United States.

Key West, September 12th, 1868.

(Sig'd) HOMER G. PLANTZ,
U. S. Att'y.
WALTER C. MALONEY,
Proctor for Claimant.

Afterwards, on the second day of November, in the year
33 last aforesaid, the following order was entered in this cause, to wit:

THE UNITED STATES
vs.
THE SCHOONER NONESUCH AND CARGO.

By consent of all parties in interest in this cause, it is ordered that this cause be transferred from this court to the Supreme Court of the United States.

Entered November 2nd, 1868.

(Sig'd) JAMES W. LOCKE, *Clerk.*

34 Circuit Court of the United States, southern district of Florida:

I, James W. Locke, clerk of the Circuit Court of the United States for the southern district of Florida, do hereby certify that the documents hereunto annexed are the original transcrip of record and exhibits in the case of the United States vs. The schooner Nonesuch and cargo, prize, appealed from the District Court of the United States for this district to this court, and that pursuant to the consent of all parties in interest in this case, the same is hereby transferred to the Supreme Court of the United States for further proceedings, pursuant to said appeal.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at Key West, in the southern district of Florida, this second day of November, in the year of our Lord, 1868, and independence of the United States the 93rd.

[SEAL.] JAS. W. LOCKE, *Clerk.*

